

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

U.S. MARITIME ADMINISTRATION,
PETE BUTTIGIEG, in his official capacity,
and LUCINDA LESSLEY, in her official
capacity,

Defendants.

Civil Action No. 4:21-cv-132 (EWH)

**MEMORANDUM IN SUPPORT OF
CENTER FOR BIOLOGICAL
DIVERSITY'S MOTION FOR
LEAVE TO FILE SECOND
NOTICE OF SUPPLEMENTAL
AUTHORITY**

ARGUMENT

Good cause exists for the Court to grant Center for Biological Diversity (Center) leave to file *Plaintiff's Second Notice of Supplemental Authority*. The Second Notice identifies new authority that is directly related to the Court's determination of Plaintiff's Motion for Summary Judgment in this matter. *See* ECF Nos. 28, 33.

On December 7, 2022, after the close of briefing in this matter, the United States District Court for the Northern District of California issued an opinion in *Ctr. for Biological Diversity v. NOAA Fisheries*, 2022 U.S. Dist. LEXIS 220920 (N.D. Cal. Dec. 7, 2022). In that case, the court held that the National Marine Fisheries Service failed to adequately consider the impacts of ship strikes on marine mammals from vessels using shipping lanes to approach ports. In reaching that conclusion the court considered the risks to threatened and endangered marine species as a result

of changes in vessel traffic connected with governmental actions, and analyzed the legal and practical importance of agency compliance with Section 7 of the Endangered Species Act.

For the foregoing reasons, this supplemental authority provides important insight into the claims at issue in this matter, and therefore the Center respectfully requests that the Court grant it leave to file *Plaintiff's Second Notice of Supplemental Authority*.

Dated: December 14, 2022

Respectfully submitted,

/s/ Hannah Connor

Hannah Connor (VSB # 74785)

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that the service was perfected on all counsel of record and interested parties through this system, which will deliver a true and correct copy of the foregoing document via CM/ECF.

Date: December 14, 2022

By: s/ Hannah Connor

Hannah Connor